

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

EMPLOYERS & OPERATING )  
ENGINEERS LOCAL 520 PENSION )  
FUND, et al., )

Plaintiffs, )

Case No. 3:07-CV-159-DRH

v. )

BENJAMIN S. ETHINGTON, an individual )  
d/b/a GUSEWELLE EXCAVATING, )

Defendant. )

**JUDGMENT**

Plaintiffs filed this action on March 1, 2007 to recover from defendant Benjamin S. Ethington, an individual, doing business as Gusewelle Excavating delinquent fringe benefit contributions and liquidated damages owed to the plaintiff benefit funds pursuant to the Employee Retirement Income Security Act, 29 U.S.C. §1132(g)(2) ("ERISA") and pursuant to the Labor Management Relations Act, 29 U.S.C. §185 ("LMRA"). Defendant was served with the summons and complaint on March 6, 2007 and has not appeared.

Under ERISA, 29 U.S.C. §1132(g)(2) and §1145, and under the applicable collective bargaining agreement, defendant owed \$26,139.60 in delinquent fringe benefit contributions for the period of September 2006 through February 2007 and \$2,613.96 in liquidated damages. On or about May 29, 2007, plaintiffs received payment in the amount of \$20,000.00 pursuant to a claim filed with the defendant's bonding company. After deducting this amount from the total contributions and liquidated damages owed for the period of September 2006 through February 2007, the total due is \$8,753.56.

The collective bargaining agreements and ERISA, 29 U.S.C. §1132(g)(2), also require defendant to pay plaintiffs' attorneys' fees and costs. Plaintiffs incurred \$578.09 in legal fees, and

\$561.50 in costs. Based on the evidence presented, the Court finds that the services performed by plaintiffs' attorneys were reasonable and necessary to the litigation of this case, that the rates charged were reasonable, and that the amount sought for attorneys' fees is reasonable. The total amount owed by defendant to plaintiffs is \$9,893.06.

IT IS HEREBY ORDERED that plaintiffs' motion for default judgment is granted.

IT IS HEREBY ORDERED that the Clerk of the Court shall enter judgment by default in favor of plaintiffs and against defendant Benjamin S. Ethington, an individual, doing business as Gusewelle Excavating in the amount of \$9,893.06.

SO ORDERED:

/s/ David RHerndon  
UNITED STATES DISTRICT JUDGE

DATE: June 28, 2007